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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/657,047	09/05/2003	Allen Dale Almendinger	011738.00164	1079

22908 7590 10/16/2006

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EXAMINER

SCHAETZLE, KENNEDY

ART UNIT	PAPER NUMBER
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3766

DATE MAILED: 10/16/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/657,047

Applicant(s)

ALMENDINGER ET AL.

Examiner

Kennedy Schaetzle

Art Unit

3766

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 August 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 44-61 is/are pending in the application.
- 4a) Of the above claim(s) 51-55 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 44-50 and 56-61 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 05 September 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>9/5/03</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. Applicant's election of Group I (claims 44-50 and 56-61) in the reply filed on August 4, 2006 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

Specification

2. The disclosure is objected to because of the following informalities: the status of the application cross-referenced on page 1 of the specification must be updated and identified by serial and/or patent number.

Appropriate correction is required.

Claim Objections

3. Claim 45 is objected to because of the following informalities: the reference in claim 45 to the telemetry processor lacks antecedent basis. Appropriate correction is required.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 44, 46-50, 56 and 58-61 are rejected under 35 U.S.C. 102(b) as being anticipated by Blanchette et al. (Pat. No. 5,292,343).

Blanchette et al. disclose a method of processing telemetry signals comprising receiving a serial data stream from a demodulator 318 (see also Figs. 13 and 16) and translating the stream into parallel accessible words (bytes). Message integrity is verified (CRC link error detection), with detection of message type (frame identifier burst defines the data within the frame as per col. 2, lines 31-52 and Table I) and acknowledgement of the received message (e.g., link maintenance message) via handshaking and CRC of transmitted data.

Regarding claim 47 and related claims, the examiner considers a main processor 20 in the external device to be notified if an application message has been received (or not received) as evidenced by confirmation indicator 25.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 45 and 57 are rejected under 35 U.S.C. 103(a) as being unpatentable over Blanchette et al. (Pat. No. 5,292,343) in view of deCoriolis et al. (Pat. No. 5,342,408).

While Blanchette et al. do not appear to explicitly state that a wake-up burst is used to activate a telemetry processor, such a step/element is old and well-known in the telemetry arts as a means to conserve the limited battery and processing resources of medical implants. deCoriolis et al., disclose a medical implant that generates a wake-up command from an external programmer to activate a telemetry processor within the implant (the examiner considers any processor that controls telemetry functions to be a telemetry processor). Those of ordinary skill in the art desiring to extend the life of the implant battery would have therefore seen the obviousness of utilizing a wake-up burst to take advantage of this benefit.

Conclusion

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kennedy Schaetzle whose telephone number is 571 272-4954. The examiner can normally be reached on M-W and F from 9:30 -6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert E. Pezzuto can be reached on M-F at 571 272-6996. The fax phone

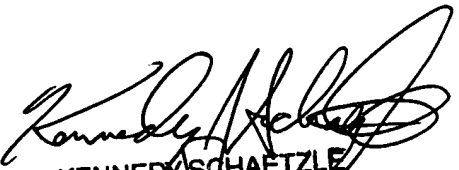
Art Unit: 3766

number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

KJS

October 4, 2006



KENNEDY SCHAEETZLE
PRIMARY EXAMINER